IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.S.RADHAKRISHNAN
&
THE HONOURABLE MR. JUSTICE A.K.BASHEER

WEDNESDAY, THE 17TH OCTOBER 2007 / 25TH ASWINA 1929

MACA.No. 1599 of 2007()

OPMV.625/1998 of PRL.MOTOR ACCIDENT CLAIMS TRIBUNAL, KOZHIKODE
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APPELLANT/PETITIONER IN OP(MV):

PRAKASAN, S/O. APPUKUTTAN,
AGED 36 YEARS, RESIDING AT OLLURTHAZHATH HOUSE,
MEENCHANTHA, AREEKKAD, KOZHIKODE.

BY ADV. SMT.LATHA PRABHAKARAN
SRI.K.M.JAMALUDHEEN

RESPONDENTS: RESPONDENTS IN OP(MV):
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1. P. MOHAMMED NISSAR, S/O. SAIDALIKUTTY,
KODAKKATTUKOTH HOUSE, VALLIKUNNAM, MALAPPURAM.

2. ILLYAS, S/O. ABDURAHIMAN,
AGED 30 YEARS, PALLIYALI HOUSE, KODAKKADU,
ALINCHUVADU, VALLIKUNNU AMSOM, MALAPPURAM.

3. THE UNITED INDIA INSURANCE COMPANY LTD.,
BRANCH OFFICE, HOSPITAL ROAD, MALAPPURAM.

THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING COME UP FOR ADMISSION ON 17/10/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

K.S.RADHAKRISHNAN & A.K. BASHEER, JJ

M.A.C.A. 1599/2007

Dated this the 17th day of October, 2007

JUDGMENT

Radhakrishnan, J

Claimant is the appellant. He sustained injury while he was travelling in an autorickshaw on 3.10.1997. He claimed Rs.1,00,000/- (One Lakh) as compensation. Treatment certificate confirms that the claimant has not sustained any serious injuries and that he has not produced any disability certificate also.

2. Tribunal awarded a compensation amount of Rs.12,865/- to the claimant. Finding that there is contributory negligence on the side of the autorickshaw, after fixing the amount at Rs.13,542/-, 5% was reduced from the compensation amount and was awarded only Rs.12,865/-. Learned counsel appearing for the appellant submitted that there is no justification in fixing the contributory negligence at 5% on the autorickshaw driver. Learned counsel also submitted that the compensation granted by the Tribunal is very low.

3. We find no oral and documentary evidence was adduced by the claimant. No disability certificate was

produced and no materials were furnished in support of his contentions. At the same time, we see no justification in reducing the compensation amount fixed by the Tribunal from 13,542/- holding that there was contributory negligence on the part of the autorickshaw.

4. In such circumstances, we are inclined to modify the award passed by the Tribunal holding that the claimant is entitled to get Rs.13,542/- as compensation with 6% of interest per annum as already ordered by the Tribunal.

Appeal is disposed of as above.

K.S.RADHAKRISHNAN
Judge

A.K. BASHEER
Judge

mrcs